



Crl.O.P.Nos.20081, 20907 & 20468 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

|               |            |
|---------------|------------|
| Reserved On   | 19.09.2023 |
| Pronounced On | 25.09.2023 |

CORAM

THE HON'BLE MR. JUSTICE G.CHANDRASEKHARAN

**Crl.O.P.Nos.20081, 20907 & 20468 of 2023**

Rosari Greaten ...Petitioner/A2 in Crl.O.P.No.20081 of 2023  
Villan Kasi @ Kasi ...Petitioner in Crl.O.P.No.20907 of 2023  
Appanu @ Maheshwaran ...Petitioner/A1 in Crl.O.P.No.20468 of 2023

Vs.

State Rep by  
The Inspector of Police,  
Velankanni Police Station,  
Nagapattinam.  
(Crime No.288 of 2022). ...Respondent in all Crl.O.P's

**PRAYER in Crl.O.P.No.20081 of 2023:** Criminal Original Petition is filed under Section 439 of Cr.P.C. praying to enlarge the petitioner on bail in Crime No.288 of 2022 pending investigation on file of the respondent police.

**PRAYER in Crl.O.P.No.20907 of 2023:** Criminal Original Petition is filed under Section 439 of Cr.P.C. praying to enlarge him on bail pending investigation of the case in S.C.No.06 of 2023 on the file of learned Principal District Court at Nagapattinam connected with the Crime



Crl.O.P.Nos.20081, 20907 & 20468 of 2023

No.288 of 2022 (on the file of the Inspector of Police, Velankani Police Station, Nagapattinam District).

**PRAYER in Crl.O.P.No.20468 of 2023:** Criminal Original Petition is filed under Section 439 of Cr.P.C. praying to enlarge the petitioner on bail in Crime No.288 of 2022 on the file of respondent police.

For Petitioner

in Crl.O.P.No.20081 of 2023 : Mr.R.Thirumoorthy

in Crl.O.P.No.20907 of 2023 : Mr.M.Illiyas

in Crl.O.P.No.20468 of 2023 : Mr.T.Ananthasekar

For Respondent

in all Crl.O.P.'s : Mr.S.Rajakumar  
Additional Public Prosecutor

### **COMMON ORDER**

1 (a).The petitioner in Crl.O.P.No.20081 of 2023, who was arrested and remanded to judicial custody on 29.08.2022 for the offence punishable under Sections 147, 148, 449, 307, 302 of IPC in Crime No.288 of 2022 on the file of the respondent police, seeks bail.

1 (b). The petitioner in Crl.O.P.No.20907 of 2023, who was arrested and remanded to judicial custody on 23.08.2022 for the offence punishable under Sections 147, 148, 449, 307, 302, 149, 120, 109, 201 of IPC in Crime No.288 of 2022 on the file of the respondent police, seeks



bail.

1 (c). The petitioner in Crl.O.P.No.20468 of 2023, who was arrested and remanded to judicial custody on 08.09.2022 for the offence punishable under Sections 147, 148, 449, 307 & 302 of IPC in Crime No.288 of 2022 on the file of the respondent police, seeks bail.

2. The petitioners in Crl.O.P.Nos.20468, 20081 & 20907 of 2023 are 1<sup>st</sup>, 2<sup>nd</sup> and 6<sup>th</sup> accused respectively.

3. The case of the prosecution as seen from the First Information Report in brief is as follows. The *de-facto* complainant is a member of the ADMK party. He is also the President of Velankanni Primary Agricultural Cooperative Bank and Paravai Chamber of Commerce. His brothers are Manohar and Manivannan. They are living in a joint family. Manohar is running a finance near Sekar Hotel, Velankanni tri-junction. One Manivel is working under Manohar for collecting the money from the borrowers. On 17.08.2022 night, Manohar and Manivel were verifying the accounts in finance. At about 9.30 p.m., ten persons came there suddenly and from them, four persons aged about 20 to 30 years barged into the finance shop with aruval and challenged Manohar as to



Crl.O.P.Nos.20081, 20907 & 20468 of 2023

how dare he was to fight against their leader Appanu. Then they started assaulting Manohar repeatedly with aruval on his head. When Manivel tried to prevent them, he was also assaulted on his left shoulder. After the assault, the accused escaped in their motorcycles.

4. On being informed by Manivelu, *de-facto* complainant visited the spot and found Manohar and Manivelu with serious injuries. They were sent to Nagapattinam Government Hospital for treatment. On arrival it was informed that Manohar was already dead. It was alleged in the FIR that there was a previous enmity between Appanu @ Maheshwaran and the *de-facto* complainant with regard to the shifting of Paravai Market. It is stated that 1) Appanu @ Maheshwaran, 2) Greaten Rosary, 3) Mathiyalagan, 4) Akash, 5) Guna, 6) Vijay, 7) Subbu @ Subramaniyan, 8) Settu Ramesh @ Ramesh Kumar, 9) Muruganantham, 10) Arularasan and some other hooligans has murdered Manohar and assaulted Manivel.

5. The learned counsel for the petitioner/A1 in Crl.O.P.No.20468 of 2023 submitted that though the name of the accused was mentioned in the FIR, it was only based upon suspicion. It is not specifically alleged



Crl.O.P.Nos.20081, 20907 & 20468 of 2023

that petitioner had participated in the assault against the deceased.

Petitioner was not at all there in the scene of occurrence, at the time of the alleged incident. He was in the union office at Nagapattinam. The First Information Report was registered within two hours of the occurrence. It shows that without any enquiry and only based on the complaint given by the *de-facto* complainant and under the influence of the complainant, FIR was registered immediately against the accused. Petitioner contested for the village panchayat election and the *de-facto* complainant supported the opponent, however petitioner won the election. That is why, the petitioner is falsely roped in as an accused in this case. Petitioner is innocent and he is in no way connected with the alleged offence. Investigation in this case is completed and the case is pending in S.C.No.06 of 2023 on the file of the learned District and Sessions Judge, Nagapattinam. He is in judicial custody from 08.09.2022. Thus, he seeks bail.

6. The learned counsel for the petitioner in Crl.O.P.No.20081 of 2023 submitted that petitioner was detained under Act 14 and that was set aside by this Court in HCP.No.113 of 2023. Petitioner is falsely



Crl.O.P.Nos.20081, 20907 & 20468 of 2023

implicated in this case. Petitioner is not the owner of the lodge as alleged by the prosecution. He completed Visual Communications course in Loyola College, Chennai and is staying in Chennai seeking employment. He has nothing to do with the crime alleged in the First Information Report. The lodge is owned by the petitioner's father. This case is registered in connection with business rivalry. Even as per the FIR allegations, four persons out of ten persons assaulted the deceased and the injured. Petitioner's name is not mentioned in the FIR. Out of 18 accused, 14 were released on bail, especially the accused who are similarly placed like the petitioner, that is, the accused who had no specific overt act were released on bail. Investigation in this case is completed and the case is pending in S.C.No.06 of 2023 on the file of the learned District and Sessions Judge, Nagapattinam. The petitioner is in judicial custody from 29.08.2022. Thus, he seeks bail.

7. In support of his submissions that co-accused had been released on bail, he produced the orders passed by this Court in Crl.O.P.Nos.14627, 18568 and 18373 of 2023. He also produced the copy of the certificate issued by the Lodge Owners Association to show



Crl.O.P.Nos.20081, 20907 & 20468 of 2023

that the 'Greaten Lodge' is owned by his father S.Ganesan.

8. The learned counsel for the petitioner in Crl.O.P.No.20907 of 2023 submitted that petitioner has nothing to do with the crime alleged in the FIR. He was detained under Act 14 and it was set aside by this Court in HCP.No.2239 of 2022 on 13.06.2023. More than 10 accused had been granted bail. He is in judicial custody from 23.08.2022. Thus, he seeks bail.

9. In reply, the learned Additional Public Prosecutor submitted that there is a long standing previous enmity between the family of the *de-facto* complainant and the accused 1 & 2. After the village panchayat election, 1<sup>st</sup> accused shifted the vegetable market from the old place to the new place. It was opposed by the deceased and his brother. Hence, A1 could not run the vegetable market in the new place. A2 has previous enmity in respect of lodge business with the deceased. They have some other issues as well. Therefore accused 1 & 2 decided to do away with the deceased. A1 approached A2 and A3 for the purpose of eliminating the deceased. 2<sup>nd</sup> and 3<sup>rd</sup> accused agreed to eliminate him with the assistance of their friends. A5 demanded Rs.10,00,000/- from A1 to



CrI.O.P.Nos.20081, 20907 & 20468 of 2023

commit the crime. A2 & A3 contacted his friend at Madras and they conspired and decided to murder the deceased.

10. As per the plan, on 17.08.2022, accused 4, 5, 6, 7, 8, 9 came to Nagapattinam and stayed in a lodge named 'Golden Sand Lodge'. At about 9.00 p.m., on 18.08.2022, A2 to A9 went to Velankanni in 4 two-wheelers to commit the murder. The accused 2, 4, 5 and 6 armed with aruval went into the finance shop of the deceased and assaulted the deceased with aruval. When the injured Manivel raised a hue and cry, he was also assaulted by A5 Anto @ Paneerselvam. After the occurrence, all the accused escaped in 4 motorcycles. He further submitted that A1 is the prime accused, who engaged all the accused to commit the offence and he has the following criminal cases against him.

| <b><i>Police Station and Crime No.</i></b>        | <b><i>Offences and stage of investigation</i></b>    |
|---------------------------------------------------|------------------------------------------------------|
| Velankanni Police Station<br>Crime No.16 of 2011  | U/s. 387, 336, 506(ii) of IPC –<br>Pending trial     |
| Velankanni Police Station<br>Crime No.367 of 2012 | U/s. 399, 353, 506(ii) of IPC –<br>Pending trial     |
| Keelaiyur Police Station<br>Crime No.253 of 2013  | U/s. 457, 380 of IPC – Under<br>Investigation        |
| Velankanni Police Station<br>Crime No.156 of 2021 | U/s. 147, 148, 294(b), 506(ii) of IPC –<br>Acquittal |
| Velankanni Police Station<br>Crime No.106 of 2021 | U/s. 143, 269, 270, 341 of IPC –<br>Pending trial    |



Crl.O.P.Nos.20081, 20907 & 20468 of 2023

| <b><i>Police Station and Crime No.</i></b> | <b><i>Offences and stage of investigation</i></b>                       |
|--------------------------------------------|-------------------------------------------------------------------------|
| Thanjavur PEW,<br>Crime No.520 of 2015     | U/s. 4(1)(A) – TNP Act and 468, 474, 471, 489(d) of IPC – Pending trial |

11. The 2<sup>nd</sup> accused went to the place of occurrence with aruval and inflicted cut injuries to the deceased with three other accused. He has one previous case in Crime No.179 of 2022 registered for the offences under Sections 294(b), 326, 506(ii), 307 IPC on the file of Velankanni Police Station. The 6<sup>th</sup> accused also went into the Finance shop and inflicted cut injuries to the deceased. Earlier bail petitions filed by the petitioners/accused are dismissed.

12. As per the additional counter filed by the respondent, it is submitted that still the enmity between the accused and the *de-facto* complainant is brewing hot and police personnel is posted in the house of the *de-facto* complainant and victim Manivel. Personal security officer is provided to the *de-facto* complainant and his brother T.V.Manivannan and the injured Manivel. If the accused are released on bail, there is no guarantee for the life of the *de-facto* complainant as well as the accused. Both the parties have serious motives against each other and if the petitioners are released on bail, anything may happen. In order to



Crl.O.P.Nos.20081, 20907 & 20468 of 2023

maintain law and order in and around south Poignainallur, Vellankanni, it is necessary that petitioners should not be released on bail. The intelligence reports of the police dated 30.05.2023 and 24.06.2023 show that there is a life threat to A1 & A2 by the *de-facto* complainant's family. Similarly, the accused Appanu @ Maheshwaran is planning to eliminate the *de-facto* complainant's family, Tr.T.V.Manivannan, Manivel and his associates through 2<sup>nd</sup> accused. The possibility of retaliatory attack between these persons could not be ruled out. Hence, the learned Additional Public Prosecutor strongly opposed for grant of bail to the petitioners.

13. Considered the rival submissions and perused the records.

14. From the FIR allegations, submissions of the learned counsel appearing for the parties, it is a case of a murder and assault in connection with political and business rivalry between two factions Viz., the factions of accused and the *de-facto* complainant. It is true that A1 has not participated in the actual commission of murder of the deceased and the assault of the injured Manivel. However, the case of the prosecution is that he is the prime man behind the murder of the deceased



Crl.O.P.Nos.20081, 20907 & 20468 of 2023

and the murderous assault on the injured. He along with A2 and other accused said to have conspired to eliminate the deceased.

15. It is the prosecution case that the 2<sup>nd</sup> accused had actually participated in the commission of the murder of the deceased. Though the 'Greeten Lodge' is not in his name, it is not denied by the accused that this lodge is owned by his father Ganesan. It is claimed that there is a business rivalry between A2 and the *de-facto* complainant's family and that was the cause for the murder. The 6<sup>th</sup> accused had assaulted the deceased.

16. From the counter and the additional counter filed it is seen that *de-facto* complainant's family and the accused, especially A1 & A2 are planning to eliminate each other. Police picketing is posted for preventing any law and order issue. A personal security officer is provided for the *de-facto* complainant and the victim/injured. It is seen that A1 & A2 are having previous cases against them as detailed above.

17. It is true that certain other accused including those who had assaulted the deceased had been granted bail taking into consideration of their long incarceration. However, the case of the petitioners are



Crl.O.P.Nos.20081, 20907 & 20468 of 2023

different from the other accused. A1 & A2 are the main accused in plotting the murder of the deceased and securing the service of the other accused for executing their plan. The 2<sup>nd</sup> accused had actually participated in the assault against the deceased. There are previous cases pending against both A1 and A2.

18. Therefore, taking into consideration the strong objections raised by the prosecution that, if these accused are released on bail, there is a possibility of retaliation attacks against each other and that there is a possibility of threatening of witnesses by the accused, tampering the evidence and thereby delaying the fair trial. Apprehension of police cannot be brushed aside lightly. Though some of the similarly placed accused like A6 was granted bail, in light of the facts presented by the prosecution, this Court is of the view that A6 cannot be extended the same benefit.

19. Taking all these factors into consideration, this Court is of the view that, if the petitioners are released on bail, there is a certain possibility of retaliatory attacks against each other, creating law and order problem, threat to witnesses, tampering of evidence and delay of



Crl.O.P.Nos.20081, 20907 & 20468 of 2023

fair trial. Therefore, this Court is not inclined to grant bail to the petitioners. This Court while dismissing the earlier bail petition in Crl.O.P.No.16697 of 2023 directed the learned Principal District & Sessions Judge, Nagapattinam to expedite the trial and dispose the case as expeditiously as possible, preferably within a period of four months from date of receipt of a copy of this order. This direction is reiterated again.

20. In the said circumstances, these criminal original petitions are dismissed.

**25.09.2023**

mpl

To

1.The Inspector of Police,  
Velankanni Police Station,  
Nagapattinam.

2.The Public Prosecutor,  
High Court of Madras



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Crl.O.P.Nos.20081, 20907 & 20468 of 2023

**G.CHANDRASEKHARAN, J.**

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**Crl.O.P.Nos.20081, 20907 & 20468 of 2023**

**25.09.2023**